



## MEMORANDUM

Agenda Item No.4(A)

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**TO:** Honorable Chairperson Barbara Carey-Shuler, Ed.D.  
and Members, Board of County Commissioners

**DATE:** December 16, 2003

**FROM:** George M. Burgess  
County Manager

**SUBJECT:** Ordinance Creating the  
Midtown Miami  
Community Development  
District

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### RECOMMENDATION

It is recommended that the Board adopt the attached ordinance creating the Midtown Miami Community Development District (CDD) in the City of Miami, pursuant to the authority granted by the Miami-Dade County Home Rule Charter for the purposes set forth in Chapter 190 of the Florida Statutes, subject to acceptance of the declaration of restrictive covenants running with the lands within the jurisdiction of the CDD.

### BACKGROUND

Biscayne Development Partners, L.L.C., owner of the Midtown Miami development, has filed an application to create the Midtown Miami CDD in connection with said development. Midtown Miami is a proposed 57-acre mixed use development lying wholly within the City of Miami, in an area bounded by the Florida East Coast Right-of-Way on the east, NE 29<sup>th</sup> Street on the south, North Miami Avenue on the west and NE 36<sup>th</sup> Street on the north. The City of Miami has adopted a resolution endorsing the creation of the CDD. The CDD is designed to provide a financing mechanism for community infrastructure, facilities, and services, along with certain ongoing operations and maintenance for the Midtown Miami development. The development plan for the lands within the proposed CDD include construction of a 600,000 square foot shopping center, 3,000 condominiums, 700 apartments, 16 town homes, 150,000 square feet of office space, 169,000 square feet of retail/entertainment space, parking garages and a 200 room hotel, with associated roadway, storm drainage and water and sewer facilities estimated to cost approximately \$83.623 million. A detailed summary of CDD elements, as well as their cost and anticipated lack of fiscal impacts to government agencies, is presented in the attached application submitted by Biscayne Development Partners, L.L.C. In accordance with Florida Statute 190, Biscayne Development Partners, L.L.C. has paid a filing fee of \$15,000 to the County.

A declaration of restrictive covenants will be proffered at public hearing by the owner of the lands within the CDD jurisdiction, providing for notice in the public records of the projected taxes and assessments to be levied by the CDD, and providing for individual prior notice to the initial purchaser of a residential lot or unit within the development. The document shall also include provisions for remedial options to property owners whose contract for sale did not include timely notice of the existence and extent of CDD liens and special assessments.

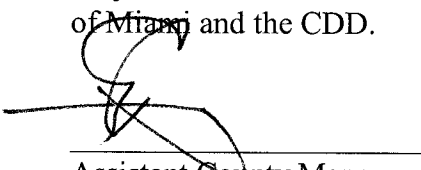
The land that is the subject of this petition is the subject of applications to amend the City of Miami's Comprehensive Neighborhood Development Plan and zoning regulations to permit the development contemplated. The infrastructure to be financed through the Midtown Miami CDD will be necessary only if the City grants such approvals and they become final. Accordingly, the declaration of restrictive covenants submitted by the petitioner provides that no CDD debt shall be incurred until all necessary land use approvals become final. The declaration further provides that if the necessary comprehensive plan amendments and development orders are not approved, the owner of the property that is within the CDD boundaries shall cooperate with this Board's action to terminate the CDD in accordance with applicable state law.

This Board is authorized by the Florida Constitution and the Miami-Dade County Home Rule Charter to establish governmental units such as the CDD within Miami-Dade County and to prescribe such government's jurisdiction and powers.

The roads within this development are all public and are to be maintained by the City of Miami.

### **FISCAL IMPACT**

There is no fiscal impact to the County caused by the creation of the CDD alone. The developers of the Midtown Miami project are proposing that the CDD assess the property owners for the costs of repaying a USHUD Section 108 Loan as well as a CDD bond for the financing of infrastructure. However, the developers are also proposing a future revenue sharing agreement between the CDD, the City of Miami, and the County that would require the local governments to participate in the repayment of the CDD bond debt from future revenues, if created. The primary source of the revenues to the County and the City will be from incremental property taxes generated by the development. If allowable, the sharing of any portion of these incremental revenues would be subject to the authorization and negotiation of an interlocal agreement between the County, the City of Miami, and the CDD.




Assistant County Manager



# MEMORANDUM

(Revised)

TO: Hon. Chairperson Barbara Carey-Shuler, Ed.D. and Members, Board of County Commissioners DATE: December 16, 2003

FROM:   
Robert A. Ginsburg  
County Attorney

SUBJECT: Agenda Item No. 4(A)

Please note any items checked.

- ☐ "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Bid waiver requiring County Manager's written recommendation
- ☐ Ordinance creating a new board requires detailed County Manager's report for public hearing
- ☐ Housekeeping item (no policy decision required)
- ☒ No committee review

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 4(A)  
12-16-03

ORDINANCE NO. \_\_\_\_\_

ORDINANCE GRANTING PETITION OF BISCAYNE DEVELOPMENT PARTNERS, L.L.C., ("B. D. PARTNERS" OR "PETITIONER") FOR ESTABLISHMENT OF A COMMUNITY DEVELOPMENT DISTRICT; CREATING AND ESTABLISHING MIDTOWN MIAMI COMMUNITY DEVELOPMENT DISTRICT ("DISTRICT"); PROVIDING FOR NAME, POWERS AND DUTIES; PROVIDING DESCRIPTION AND BOUNDARIES; PROVIDING INITIAL MEMBERS OF BOARD OF SUPERVISORS; ACCEPTING PROFFERED DECLARATION OF RESTRICTIVE COVENANTS; PROVIDING SEVERABILITY, EXCLUSION FROM THE CODE AND AN EFFECTIVE DATE

**WHEREAS**, the Florida Legislature created and amended Chapter 190, Florida Statutes, to provide an alternative method to finance and manage basic services for community development; and

**WHEREAS**, Section 1.01(A)(21) of the Miami-Dade County Home Rule Charter grants the Miami-Dade County Board of County Commissioners the authority to exercise all powers and privileges granted to municipalities and counties by the laws of this State; and

**WHEREAS**, Article VIII, Section 6(1) of the Florida Constitution provides for exclusive County Charter authority to establish all governmental units within Miami-Dade County and to provide for their government and prescribe their jurisdiction and powers; and

**WHEREAS**, Biscayne Development Partners L.L.C., ("B. D. Partners" or "Petitioner") has petitioned for the establishment of the Midtown Miami Community Development District (the "District"); and

**WHEREAS**, a public hearing has been conducted by the Miami-Dade County Board of County Commissioners in accordance with the requirements and procedures of Section

190.005(2)(b), Florida Statutes, and the applicable requirements and procedures of the Miami-Dade County Home Rule Charter and Code; and

**WHEREAS**, the District will constitute a timely, efficient, effective, responsive and economic way to deliver community development services in the area, thereby providing a solution to the County's planning, management and financing needs for delivery of capital infrastructure therein without overburdening the County and its taxpayers; and

**WHEREAS**, the Board of County Commissioners finds that the statements contained in the Petition are true and correct; and

**WHEREAS**, the creation of the District is not inconsistent with any applicable element or portion of the State comprehensive plan or the Miami-Dade County Comprehensive Development Master Plan; and

**WHEREAS**, the area of land within the District is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developable as one functional interrelated community; and

**WHEREAS**, the creation of the District is the best alternative available for delivering community development facilities and services to the area that will be served by the District; and

**WHEREAS**, the proposed facilities and services to be provided by the District will be compatible with the capacity and uses of existing local and regional community development facilities and services; and

**WHEREAS**, the area that will be served by the District is amenable to separate special-district government; and

**WHEREAS**, the owner of the property that is to be developed and served by the community development services and facilities to be provided by the District has submitted an

executed declaration of restrictive covenants pledging among other things to provide initial purchasers of individual residential units with notice of liens and assessments applicable to such parcels, with certain remedial rights vesting in the purchasers of such parcels if such notice is not provided in a timely and accurate manner; and

**WHEREAS**, having made the foregoing findings, after a public hearing, the Miami-Dade County Board of County Commissioners wishes to exercise the powers bestowed upon it by Section 1.01(A)(21) of the Miami-Dade County Home Rule Charter in the manner provided by Chapter 190, Florida Statutes; and

**WHEREAS**, because the proposed District is located wholly within the municipal boundaries of the City of Miami, the City is in a position to be well informed regarding the merits of this District; and

**WHEREAS**, the Board of County Commissioners desires to establish the District, having been informed by the City of Miami that its elected officials support the creation of the District within the municipal boundaries; and

**WHEREAS**, the Miami-Dade County Board of County Commissioners finds that the District shall have those general and special powers authorized by Sections 190.011 and 190.012, Florida Statutes, and set forth herein, and that it is in the public interest of all of the citizens of Miami-Dade County that the District have such powers ,

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:**

Section 1. The foregoing findings, which are expressly set forth herein, are hereby adopted and made a part hereof.

Section 2. The Petition to establish the Midtown Miami Community Development District over the real property described in Exhibit A attached hereto, which was filed by Biscayne Development Partners L.L.C., a Florida limited liability company, on October 16, 2003, and which Petition is on file at the Office of the Clerk of the Board, is hereby granted. A copy of the Petition together with a portion of the Petition exhibits, are attached and incorporated herein (Exhibit B).

Section 3. The external boundaries of the District shall be as depicted on the location map attached hereto and incorporated herein as Exhibit C.

Section 4. The initial members of the Board of Supervisors shall be as follows:

Michael Ullian  
Deborah Samuel  
Ilise Krebs  
Richard Forrest  
Michael Northam

Section 5. The name of the District shall be the "Midtown Miami Community Development District."

Section 6. The Midtown Miami Community Development District is created for the purposes set forth in Chapter 190, Florida Statutes, pursuant to the authority granted by Section 1.01(A)(21) of the Miami-Dade County Home Rule Charter.

Section 7. Pursuant to Section 190.005 (2) (d), Florida Statutes, the charter for the Midtown Miami Community Development District shall be Sections 190.006 through 190.041, Florida Statutes.

Section 8. The Miami-Dade County Board of County Commissioners hereby grants to the Midtown Miami Community Development District all general powers authorized pursuant

to Section 190.011, Florida Statutes, and hereby finds that it is in the public interest of all citizens of Miami-Dade County to grant such general powers.

Section 9. The Miami-Dade County Board of County Commissioners hereby grants to the Midtown Miami Community Development District the special powers authorized pursuant to Section 190.012 (1), Florida Statutes and Sections 190.012 (2)(d) and (f), (except for powers regarding waste disposal), Florida Statutes and Section 190.012 (3), Florida Statutes, and hereby finds that it is in the public interest of all citizens of Miami-Dade County to grant such special powers; provided that the District's exercise of power under Section 190.012(1)(b), Florida Statutes, pertaining to water, waste water and reuse water services shall be pursuant to that Declaration of Restrictive Covenants submitted to the Board of County Commissioners in connection with the petition.

Section 10. All bonds issued by the Midtown Miami Community Development District pursuant to the powers granted by this ordinance shall be validated pursuant to Chapter 75, Florida Statutes.

Section 11. No bond, debt or other obligation of the Midtown Miami Community Development District, nor any default thereon, shall constitute a debt or obligation of Miami-Dade County, except upon the express approval and agreement of the Miami-Dade Board of County Commissioners.

Section 12. Notwithstanding any power granted to the Midtown Miami Community Development District pursuant to this Ordinance, neither the District nor any real or personal property or revenue in the district shall, solely by reason of the District's creation and existence, be exempted from any requirement for the payment of any and all rates, fees, charges, permitting fees, impact fees, connection fees, or similar County rates, fees or charges, or special taxing



districts special assessments which are required by law, ordinance or County rule or regulation to be imposed within or upon any local government within the County.

Section 13. Notwithstanding any power granted to the Midtown Miami Community Development District pursuant to this Ordinance, the District may exercise the power of eminent domain outside the District's existing boundaries only with the prior specific and express approval of the Board of County Commissioners of Miami-Dade County.

Section 14. This Board hereby accepts that Declaration of Restrictive Covenants proffered by the owners of the lands within the jurisdiction of the Midtown Miami Community Development District, in connection with the petition submitted by Biscayne Development Partners, L.L.C. and approved herein.

Section 15. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 16. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance shall be excluded from the Code of Miami-Dade County.

Section 17. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as  
to form and legal sufficiency:

RAG

Prepared by:

Jae

Joni Armstrong Coffey

## EXHIBIT "A"

### LEGAL DESCRIPTION

A portion of "Western Boulevard Tract" as recorded in Plat Book 1 Page 108 of the Public Records of Dade County, Florida; Together with a portion of "Plat of Montgomery Co's Subdivision" as recorded in Plat Book 1 at Page 144 of the Public Records of Miami-Dade County, Florida; Together with a portion of "Central Buena Vista" as recorded in Plat Book 121 at Page 71 of the Public Records of Miami-Dade County, Florida; The overall boundary being more particularly described as follows:

Begin at the southwest corner of Lot 22 of said "Western Boulevard Tract"; Thence N1°18'28"W along the east right-of-way line of North Miami Avenue, for 972.92 feet; Thence N1°16'42"W continuing along said east right-of-way line, for 1310.24 feet to the south right-of-way line of the Northeast 36th Street; Thence N88°23'47"E along the south right-of-way line Northeast 36th Street for 1349.22 feet to the proposed west right-of-way line of the Florida East Coast Railway, said right-of-way line lying approximately 28.00 feet westerly of the centerline of the existing railroad tracks; Thence S12°12'51"W along said proposed right-of-way line, for 313.32 feet to a point of curve; Thence southwesterly along the arc of a circular curve concave to the southeast, said curve having a radius of 1500.00 feet and a central angle of 3°07'24", for an arc distance of 81.77 feet to a point of tangency; Thence S9°05'27"W continuing along said proposed right-of-way line, for 99.75 feet to a point of curve; Thence southwesterly along the arc of a circular curve concave to the northwest, said curve having a radius of 3500.00 and a central angle of 3°07'24", for an arc distance of 190.79 feet to a point of tangency; Thence S12°12'51"W continuing along said proposed right-of-way line for 1665.22 feet to the north right-of-way line of Northeast 29th Street extended; Thence S88°34'16"W along the said north right-of-way line and its extension for 462.78 feet to the southeast corner of Lot 16 of said "Western Boulevard Tract"; Thence N1°18'24"W along the east line of said Lot 16, for 138.20 feet to the northeast corner of said Lot 16; Thence S88°34'16"W along the north line of Lots 16,17,18,19, and 20 of said "Western Boulevard Tract", for 250.00 feet to the northwest corner of said Lot 20; Thence S1°18'28"E along the west line of Lot 20, for 138.20 feet to southwest corner of said Lot 20; Thence S88°34'16"W along the south line of Lots 21 and 22 of said "Western Boulevard Tract", for 100.00 feet to the point of beginning, subject to a proposed communications easement over the easterly 25.00 feet thereof.

EXHIBIT "B"

**PETITION FOR ORDINANCE**

**FOR**

**Midtown Miami  
Community Development District**

October 10, 2003

Prepared by

***Greenberg Traurig, P.A.***  
1221 Brickell Avenue  
Miami, Florida 33131  
Tele: (305) 579-0500

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IN RE:     AN ORDINANCE TO ESTABLISH                     )  
          THE MIDTOWN MIAMI                                 )  
          COMMUNITY DEVELOPMENT DISTRICT                )

**PETITION**

Biscayne Development Partners, LLC, a Florida limited liability company ("Petitioner"), hereby petitions the Miami-Dade County Commission to establish a Community Development District (the "District") with respect to the land described herein, and in support of the Petition, Petitioner states:

1.       The proposed District is located within the City of Miami. Exhibit 1 depicts the general location of the project. The proposed District covers approximately 57 acres of land. The metes and bounds description of the external boundaries of the District is set forth in Exhibit 2. There is no real property within the internal boundaries of the proposed District which is to be excluded from the District.

2.       Attached to this Petition as Exhibit 3 and made a part hereof is a copy of the Special Warranty Deed dated December 5, 2002, demonstrating that the Petitioner is the owner of 100% of the real property to be included in the District.

3.       The five persons designated to serve as initial members of the Board of Supervisors of the proposed District are as follows:

<u>Name</u>	<u>Address</u>
Michael Ullian	408 S. Andrews Avenue Suite 104 Ft. Lauderdale, Florida 33301
Deborah Samuel	3110 NE 2 <sup>nd</sup> Avenue Miami, Florida 33137
Ilise Krebs	408 S. Andrews Avenue Suite 104 Ft. Lauderdale, Florida 33301
Richard Forrest	41268 US Highway 19 North Tarpon Springs, Florida 34689
Michael Northam	2655 McCormick Drive Suite 202 Clearwater, Florida 33579

4. The proposed name of the District to be established is Midtown Miami Community Development District (the "District").

5. There are no existing major trunk water mains, sewer interceptors or outfalls.

6. The proposed timetable for the construction of District services and the estimated cost of constructing the services, based on available data, are shown on Exhibits 4A and 4B. These are good faith estimates but is not binding on the Petitioner and the District and are subject to change.

7. Petitioner is in the process of developing the project as a commercial and residential center. The proposed uses for the land within the District are retail, residential and office. The City of Miami Comprehensive Neighborhood Plan and Future Land Use Map currently designate the land contained within the proposed District for industrial and general commercial. The City of Miami has applied to amend the City of Miami Neighborhood Comprehensive Plan to designate the area within the proposed District for restricted commercial. A copy of the Amendment to the Comprehensive Neighborhood Plan is attached hereto as Appendix I. The proposed uses for the land included within the proposed District will be consistent with the City of Miami Comprehensive Neighborhood Plan and the City of Miami Future Land Use Map upon final adoption of the amendments described above. The future general distribution, location and extent of public and private uses of land proposed for the area within the District are shown on Exhibit 5.

8. Exhibit 6 is a Statement of Estimated Regulatory Costs prepared in accordance with the requirements of Section 120.541, Florida Statutes. Exhibit 7 is a form of Declaration of Restrictive Covenants to be executed by the Petitioner as owner of 100% of the real property to be included in the District, and recorded in the public records of Miami-Dade County, Florida.

9. The District is seeking and hereby requests the right to exercise all powers provided for in Section 190.06 through 190.041, Florida Statutes (except for powers regarding waste disposal or collection of any waste other than commercial or industrial), including the special powers provided by Section 190.012, Florida Statutes, including particularly, those special powers provided by Section 190.012(1)(d)2, Florida Statutes, and Section 190.012(2)(a), Florida Statutes.

10. The Petitioner is Biscayne Development Partners, LLC, a Florida limited liability company, whose address is 417 5<sup>th</sup> Avenue, 9<sup>th</sup> Floor, New York, New York 10016.

11. The property within the proposed District is amenable to operating as an independent special district for the following reasons:

a. Establishment of the District and all land uses and services planned within the proposed District will not be inconsistent with applicable elements or portions of the effective City of Miami Comprehensive Neighborhood Plan upon final adoption of the amendments discussed in paragraph 7 above.

b. The community development services of the District will be compatible with the capacity and use of existing local and regional community development services and facilities.

c. The proposed District will be the best alternative available for delivering community development services to the area to be served because the District provides a governmental entity for delivering those services and facilities in a manner that does not financially impact persons residing outside the District and provides a responsible perpetual entity capable of making reasonable provisions for the operation and maintenance of the District services and facilities in the future.

d. The real property to be included in the District is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developed with common public infrastructure.

**WHEREFORE**, Petitioner respectfully requests the Miami-Dade County Commission to:

1. Hold a public hearing as required by Section 190.005(2)(b), Florida Statutes, to consider the establishment of the Midtown Miami Community Development District; and

2. Adopt an ordinance pursuant to Chapter 190, Florida Statutes, granting this Petition and establishing the Midtown Miami Community Development District.

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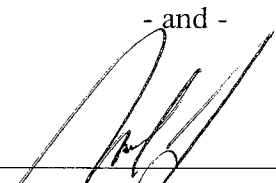
Respectfully submitted this 10<sup>th</sup> day of October, 2003.

BISCAYNE DEVELOPMENT PARTNERS, LLC  
a Florida limited liability company

By: 

Print Name: DANIEL PFOFFEN

Title: Member Representative of Cayre

- and -  
By: 

Print Name: MICHAEL SAMUEL

Title: Member Representative of Convergency

EXHIBIT 4A

MIDTOWN MIAMI COMMUNITY DEVELOPMENT DISTRICT

ESTIMATED INFRASTRUCTURE CONSTRUCTION TIME TABLE

<u>Description</u>	<u>Estimated Start Date</u>	<u>Estimated Completion Date</u>
<b>Improvements</b>		
Roadway	4 <sup>th</sup> Qtr. 2004	4 <sup>th</sup> Qtr. 2005
Water & Sewer	3 <sup>rd</sup> Qtr. 2004	3 <sup>rd</sup> Qtr. 2005
Drainage	3 <sup>rd</sup> Qtr. 2004	3 <sup>rd</sup> Qtr. 2005
Streetscape/Landscape	3 <sup>rd</sup> Qtr. 2005	2 <sup>nd</sup> Qtr. 2006
Irrigation	2 <sup>nd</sup> Qtr. 2005	4 <sup>th</sup> Qtr. 2005
Plaza #P1	4 <sup>th</sup> Qtr. 2005	2 <sup>nd</sup> Qtr. 2006
Overall Improvements	4 <sup>th</sup> Qtr. 2004	3 <sup>rd</sup> Qtr. 2005
<b>Garages</b>	4 <sup>th</sup> Qtr. 2004	4 <sup>th</sup> Qtr. 2005
<b>Landscape/Sitescape</b>	3 <sup>rd</sup> Qtr. 2005	2 <sup>nd</sup> Qtr. 2006



**EXHIBIT 4B**

**MIDTOWN MIAMI COMMUNITY DEVELOPMENT DISTRICT**

**CONSTRUCTION COSTS ESTIMATES**

<b><u>Description</u></b>	<b><u>Estimated Cost</u></b>
<b>Improvements</b>	
Roadway	\$5,185,185
Water & Sewer	2,903,710
Drainage	2,992,354
Streetscape/Landscape	6,488,669
Irrigation	516,348
Plaza #P1	3,660,250
Overall Improvements	<u>4,520,495</u>
<b>Total Improvements</b>	\$26,267,011
<b>Garages</b>	52,355,518
<b>Landscape/Sitescape</b>	<u>5,000,000</u>
<b>Grand Total</b>	<u>\$83,622,529</u>

EXHIBIT 6

Midtown Miami  
Community Development District

**Statement of Estimated Regulatory Costs**

## STATEMENT OF ESTIMATED REGULATORY COSTS Midtown Miami Community Development District

### 1.0 Introduction

#### 1.1 Purpose and Scope

This statement of estimated regulatory costs ("SERC") supports the petition to form the Midtown Miami Community Development District ("District" or "CDD"). The proposed District comprises approximately 56 acres of land on which Biscayne Partners, L.L.C., ("Developer") plans to develop its Midtown Miami mixed-use development project ("Development"). The Development is planned to include a shopping center of 599,640 square feet, 3,000 condominiums, 700 apartments, 16 town homes, 150,000 square feet of office space, 119,000 square feet of retail space contained in the office tower and condominiums, 50,000 square feet of retail/entertainment space, and a 200-room hotel. To support this development program will require capital improvements with an estimated total cost of \$83,620,000. To fund its capital improvement plan ("CIP") the District will obtain a HUD Section 108 loan and issue approximately \$75,075,000 in bonds.

The limitations on the scope of this SERC are explicitly set out in Section 190.002(2)(d), F.S. (governing District formation or alteration) as follows:

"That the process of establishing such a district pursuant to uniform general law shall be fair and based only on factors material to managing and financing the service delivery function of the district, so that any matter concerning permitting or planning of the development is not material or relevant (emphasis added)."

#### 1.2 Overview of the proposed Midtown Miami Project

The Project is located on North Miami Avenue just south of I-195 and just east of I-95. The site is an abandoned Florida East Coast rail yard. It is designed to be an innovative, a mixed-use project, urban project. Table 1 outlines the proposed land use plan for the Project. Based on this program the District has designed the CIP to support the development plan.

**Table 1. Land Uses in Midtown Miami**

Category	Total	2008	2009	2010	2011
Retail Shopping Center (square feet)	599,640	599,640	-	-	-
Other Retail (square feet)	119,000	34,000	16,000	25,000	11,000
Condominiums (dwelling units)	2,816	366	350	700	350
Apartments (units)	700	700	-	-	-
Offices (square feet)	150,000	150,000	-	-	-
Parking garages (spaces)	3,399	3,399	-	-	-
Spa entertainment	50,000	-	50,000	-	-
Hotel	200	-	200	-	-

### 1.3 Requirements for Statement of Estimated Regulatory Costs

Section 120.541(2), F.S. (2002), defines the elements a statement of estimated regulatory costs must contain:

“(a) A good faith estimate of the number of individuals and entities likely to be required to comply with the rule, together with a general description of the types of individuals likely to be affected by the rule.

(b) A good faith estimate of the cost to the agency, and to any other state and local government entities, of implementing and enforcing the proposed rule, and any anticipated effect on state and local revenues.

(c) A good faith estimate of the transactional costs likely to be incurred by individuals and entities, including local governmental entities, required to comply with the requirements of the rule. As used in this paragraph, “transactional costs” are direct costs that are readily ascertainable based upon standard business practices, and include filing fees, the cost of obtaining a license, the cost of equipment required to be installed or used or procedures required to be employed in complying with the rule, additional operating costs incurred, and the cost of monitoring and reporting.

(d) An analysis of the impact on small businesses as defined by Section 288.703, F.S., and an analysis of the impact on small counties and small cities as defined by Section 120.52, F.S. Orange County is not defined as a small County for purposes of this requirement.

(e) Any additional information that the agency determines may be useful.

(f) In the statement or revised statement, whichever applies, a description of any good faith written proposal submitted under paragraph (1) (a) and either a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the proposed rule."

**2.0 A good faith estimate of the number of individuals and entities likely to be required to comply with the ordinance, together with a general description of the types of individuals likely to be affected by the ordinance.**

As noted above, the proposed District will provide infrastructure and community services to the Development. All of the property owners in the District (estimated in Table 1) will be required to comply with District rules and their properties will be encumbered with District obligations to pay for infrastructure and operations and maintenance expenses incurred by the District. Of course prior to the sell out of the real estate all of the undeveloped land owned by the Developer and any other landowner will also be under the jurisdiction of the District.

**3.0 Good faith estimate of the cost to state and local government entities, of implementing and enforcing the proposed ordinance, and any anticipated effect on state and local revenues.**

**3.1 Costs to Governmental Agencies of Implementing and Enforcing Ordinance**

State Governmental Entities

The cost to State entities to review or enforce the proposed ordinance will be very modest. Since the District comprises less than 1,000 acres, the City of Miami and Miami/Dade County are the reviewing agencies for the petition. There are only modest additional ongoing costs to various State entities to implement and enforce the proposed ordinance. If approved, the District will be special purpose unit of local government. The District is required to file various reports to the State of Florida, the Department of Community Affairs and other agencies of the State. The filing requirements are outlined in Appendix A. The cost to the State and its various departments to process additional reports filed by the District will be very small since the State already collects these reports from numerous other units of government. The addition of one more set of reports will have very little cost impact. Finally, the District must pay a small annual filing fee to the Department of Community Affairs to help offset the costs to the State from the additional paperwork.

## The City of Miami and Miami-Dade County

The proposal to form the District will require the City and County to review the petition and its supporting exhibits. In addition, the City and County will hold public hearings to discuss the petition and to take public input. These activities will absorb staff time and time of the City and County Commissions. However, these costs are very modest at most for the following reasons. First, the review of this petition to form the District does not include an analysis of the Development itself. In fact, such a review of the Project is prohibited by statute. Second, the petition contains all of the information necessary for its review. Third, the City and County already have all of the staff necessary to review the petition. Fourth, no capital costs are involved in the review. Fifth, the City and County routinely processes similar petitions for land use and zoning changes that are far more complicated than this petition to form the District. Finally, the filing fee will offset most if not all of these costs.

The City and County will incur only a small additional annual cost if this petition is approved. The proposed District would be an independent unit of local government, so the District is responsible for its own budget, reporting, and the full conduct of its powers within its boundaries. The District will provide the City and County with its budget each year, but no City or County action is required.

### 3.2 Impact on State and Local Revenues

Adoption of the proposed ordinance will have no negative impact on State or local revenues. The District is an independent unit of local government. It is designed to provide community facilities and services to serve the development. It has its own sources of revenue. No State or local subsidies are required or expected.

In this regard it is important to note that any debt obligations incurred by the CDD to construct its infrastructure, or for any other reason, are not debts of the State of Florida or any unit of local government. By State law debts of the CDD are strictly its own responsibility.

### 4.0 **A good faith estimate of the transactional costs likely to be incurred by individuals and entities required to comply with the requirements of the ordinance.**

The District plans to provide various community facilities and services to the property in the District, as outlined in Table 2. The District plans to fund, own, operate and maintain all of the community's infrastructure facilities except for the utility system and the roads which will be dedicated to the City.

**Table 2. Midtown Miami Community Development District  
Proposed Facilities and Services**

<b>FACILITY</b>	<b>FUNDED BY</b>	<b>O&amp;M BY</b>	<b>OWNERSHIP</b>
Roads	CDD	City	City
Storm water management	CDD	City	City
Water/Sewer Utilities	CDD	County	County
Parking garages	CDD	CDD	CDD
Landscape	CDD	CDD	CDD

The petitioner has estimated the costs for providing the capital facilities outlined in Table 2. The cost estimates are shown in Table 3 below. Total costs for these facilities are estimated to be approximately \$83,622,529. To fund this construction program the District may issue special assessment or other revenue bonds estimated to total \$75,075,000 and it plans to obtain a HUD Section 108 loan. These would be repaid through non-ad valorem assessments levied on all properties in the District that may benefit from the District's capital improvement program as outlined in Table 3. In addition, the District plans to enter into an Interlocal agreement with the City and the County wherein certain revenues generated by the project will be shared with the District to help defray some of the costs of the public infrastructure as outlined in Table 2.

The infrastructure for the Project will be constructed in one phase. This is necessary given the lack of infrastructure currently serving the site and the relatively small size of the site coupled with the magnitude of the development program as outlined in Table 1.

**Table 3. Summary of Estimated Capital Costs for Proposed  
Midtown Miami Community Development District**

<b>Category</b>	<b>Amount</b>
Roadways	\$5,185,185
Water/Sewer	\$2,903,710
Drainage	\$2,992,354
Streetscape/Landscape	\$6,488,669
Irrigation	\$516,348
Plaza #P1	\$3,660,250
Overall Improvements	\$4,520,495
	=====
<b>Sitework</b>	<b>\$26,267,011</b>
 <b>Garages</b>	 <b>\$52,355,518</b>
 <b>Landscape/Sitescape</b>	 <b>\$5,000,000</b>
	=====
 <b>Grand Total</b>	 <b>\$83,622,529</b>

Prospective future landowners in the District may be required to pay non-ad valorem assessments levied by the District to secure the debt incurred through bond issuance. In addition to the levy of non-ad valorem assessments for debt service, the District may also impose a non-ad valorem assessment to fund the operations and maintenance of the District and its facilities and services.

It is important to note that the various costs outlined in Table 3 are typical for developments of the type contemplated here. In other words, there is nothing peculiar about the District's financing that requires additional infrastructure over and above what would normally be needed. Therefore, these costs are not in addition to normal development costs. Instead, the facilities and services provided by the District are substituting in part for developer-provided infrastructure and facilities or for facilities that are often provided by other public entities, such as the parking garages. Along these same lines, District-imposed assessments for operations and maintenance costs are similar to what would be charged in any event by a property owners association common to most master planned developments.



Real estate markets are quite efficient, because buyers and renters evaluate all of the costs and benefits associated with various alternative locations. Therefore, market forces preclude developers from marking up the prices of their products beyond what the competition allows. To remain competitive the operations and maintenance charges must also be in line with the competition.

Furthermore, locating in the District by new residents or businesses is completely voluntary. So, ultimately, all owners and users of the affected property choose to accept the District's costs in tradeoff for the benefits that the District provides.

The District is an alternative means to finance necessary community services. District financing is no more expensive, and often less expensive, than the alternatives of a municipal service taxing unit (MSTU), a neighborhood association, County provision (directly or via a dependent special district), or through developer-bank loans.

**5.0 An analysis of the impact on small businesses as defined by Section 288.703, F.S., and an analysis of the impact on small counties and small cities as defined by Section 120.52, F.S.**

There will be no impact on small businesses because of the formation of the proposed District. If anything, the impact may be positive. This is because the District must competitively bid certain of its contracts. This affords small businesses the opportunity to bid on District work.

The development is located in the City of Miami and in Miami-Dade County. As of the latest Census date, the 2000 Census, the City and the County have a population of more than 125,000. Therefore, the proposed District is not located in a County defined as a "small" according to Section 120.52, F.S.

**6.0 Any additional useful information.**

The analysis provided above is based on a straightforward application of economic theory, especially as it relates to tracking the incidence of regulatory costs and benefits. Inputs were received from the Developer's Engineer and other professionals associated with the Developer.

Finally, it is useful to reflect upon the question of whether the proposed formation of the District is the best alternative to provide community facilities and services to the Development. As an alternative to the District, the City or the County could approve a dependent special district for the area, such as an MSBU or a special taxing district under Chapter 170, F.S. Either of these alternatives could finance the improvements contemplated in Table 2 in a fashion similar to the proposed District.

However, each of these alternatives is inferior to the District. Unlike the District the alternatives would require the City or the County to continue to administer the project and its facilities and services. As a result, the costs for these services and facilities would not be sequestered to the land directly benefiting from them, as the case would be with the District. In addition, administering a project of the size and scale contemplated herein would make little sense for the City or the County.

A District also is preferable from a government accountability perspective. With a District as proposed, residents and renters in the District would have a focused unit of government under their direct control. The District can then be more responsive to resident needs without disrupting other City or County responsibilities.

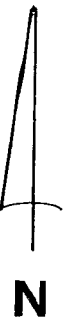
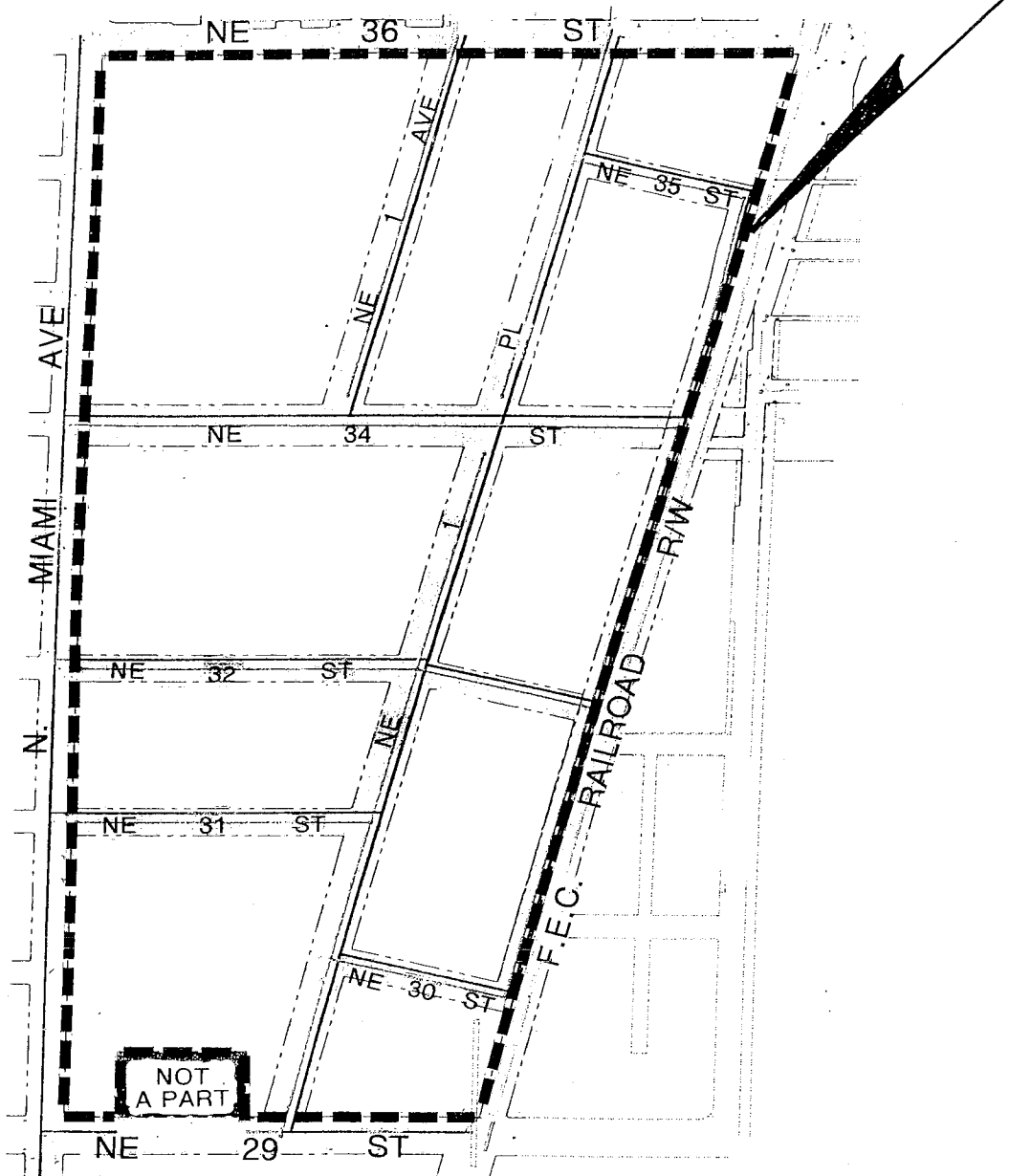
Another alternative to the District would be for the developer to provide the infrastructure and to use a property owners association (POA) for operations and maintenance of community facilities and services. A District is superior to a POA for a variety of reasons. First, unlike a POA a District can impose and collect its assessments along with other property taxes. Therefore, the District is far more assured of obtaining its needed funds than is a POA. Second, the proposed District is a unit of local government. Therefore, unlike the POA the District must abide by all governmental rules and regulations.

Fishkind & Associates certifies that this SERC meets the requirements for a SERC as set out in Chapter 120.541, F.S.

We have developed over 25 SERCs. Below is a listing of some of these.

- Urban Orlando Community Development District
- Marshall Creek Community Development District
- Cedar Hammock Community Development District
- Meditera Community Development District
- Brooks Community Development District
- Pelican Marsh Community Development District
- Pelican Landing Community Development District
- Fiddler's Creek Community Development District 1 and 2
- Lakewood Ranch Community Development Districts 1-6
- Villages Community Development Districts 1-5
- Sumter Landing Community Development District
- Westchester Community Development Districts 1-6
- PGA Community Development Districts 1-5

# DISTRICT BOUNDARIES



## MIDTOWN MIAMI

COMMUNITY DEVELOPMENT DISTRICT